

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1981

Introduced by Assembly Member Hill

February 17, 2010

An act to amend Section 2982 of the Civil Code, and to amend Sections 42861, 42885, 42886, and 42889 of, and to add Sections 42860.5 and 42885.1 to, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1981, as amended, Hill. Recycling: waste tires: fees.

(1) The California Tire Recycling Act requires a person who purchases a new tire to pay a California tire fee and the revenue generated from the fee is deposited in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery, upon appropriation by the Legislature, for programs related to the disposal of waste tires, except that a specified amount of the fee is designated for programs and projects that mitigate or remediate air pollution caused by waste tires. The tire fee is imposed upon, among other things, a new tire sold with a new or used motor vehicle, including the spare tire.

Existing law authorizes the department to enter into a contract with the State Board of Equalization to collect the fee pursuant to the Fee Collection Procedures Law, which provides for criminal penalties for certain violations of that law.

This bill would exclude, from the tire fee, a tire on a vehicle that is sold or leased by a new motor vehicle dealer. The bill would instead require a person who purchases or leases those vehicles to pay a California vehicle tire fee and would require the retail vehicle seller, as defined, to collect the California vehicle tire fee. The retail vehicle seller would be required to remit the fee, except as specified, to the state for deposit in the California Tire Recycling Management Fund.

The bill would also make conforming changes with regard to the vehicle tire fee, including conforming changes to the Automobile Sales Finance Act. The bill would impose a state-mandated local program by creating new crimes with regard to the collection of the California new vehicle tire fee.

The bill would require the State Board of Equalization, in consultation with the State Air Resources Board and the Department of Resources Recycling and Recovery, to submit a report to the Legislature, by January 1, 2012, regarding the fiscal effect of the imposition of the California vehicle tire fee.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2982 of the Civil Code is amended to
2 read:
3 2982. A conditional sale contract subject to this chapter shall
4 contain the disclosures required by Regulation Z, whether or not
5 Regulation Z applies to the transaction. In addition, to the extent
6 applicable, the contract shall contain the other disclosures and
7 notices required by, and shall satisfy the requirements and
8 limitations of, this section. The disclosures required by subdivision
9 (a) may be itemized or subtotaled to a greater extent than as
10 required by that subdivision and shall be made together and in the
11 sequence set forth in that subdivision. All other disclosures and
12 notices may appear in the contract in any location or sequence and

1 may be combined or interspersed with other provisions of the
2 contract.

3 (a) The contract shall contain the following disclosures, as
4 applicable, which shall be labeled “itemization of the amount
5 financed:”

6 (1) (A) The cash price, exclusive of document preparation fees,
7 business partnership automation fees, taxes imposed on the sale,
8 pollution control certification fees, prior credit or lease balance on
9 property being traded in, the amount charged for a service contract,
10 the amount charged for a theft deterrent system, the amount charged
11 for a surface protection product, the amount charged for an optional
12 debt cancellation agreement, and the amount charged for a contract
13 cancellation option agreement.

14 (B) The fee to be retained by the seller for document preparation.

15 (C) The fee charged by the seller for certifying that the motor
16 vehicle complies with applicable pollution control requirements.

17 (D) A charge for a theft deterrent device.

18 (E) A charge for a surface protection product.

19 (F) Taxes imposed on the sale.

20 (G) The amount of any optional business partnership automation
21 fee to register or transfer the vehicle, which shall be labeled
22 “Optional DMV Electronic Filing Fee.”

23 (H) The amount charged for a service contract.

24 (I) The prior credit or lease balance remaining on property being
25 traded in, as required by paragraph (6). The disclosure required
26 by this subparagraph shall be labeled “prior credit or lease balance
27 (see downpayment and trade-in calculation).”

28 (J) Any charge for an optional debt cancellation agreement.

29 (K) Any charge for a used vehicle contract cancellation option
30 agreement.

31 (L) The total cash price, which is the sum of subparagraphs (A)
32 to (K), inclusive.

33 (M) The disclosures described in subparagraphs (D), (E), and
34 (K) are not required on contracts involving the sale of a motorcycle,
35 as defined in Section 400 of the Vehicle Code, or on contracts
36 involving the sale of an off-highway motor vehicle that is subject
37 to identification under Section 38010 of the Vehicle Code, and the
38 amounts of those charges, if any, are not required to be reflected
39 in the total price under subparagraph (L).

40 (2) Amounts paid to public officials for the following:

1 (A) Vehicle license fees.

2 (B) Registration, transfer, and titling fees.

3 (C) The California tire fee or the California vehicle tire fee
4 imposed pursuant to Section 42885 or 42885.1, respectively, of
5 the Public Resources Code.

6 (3) The aggregate amount of premiums agreed, upon execution
7 of the contract, to be paid for policies of insurance included in the
8 contract, excluding the amount of any insurance premium included
9 in the finance charge.

10 (4) The amount of the state fee for issuance of a certificate of
11 compliance, noncompliance, exemption, or waiver pursuant to any
12 applicable pollution control statute.

13 (5) A subtotal representing the sum of the foregoing items.

14 (6) The amount of the buyer's downpayment itemized to show
15 the following:

16 (A) The agreed value of the property being traded in.

17 (B) The prior credit or lease balance, if any, owing on the
18 property being traded in.

19 (C) The net agreed value of the property being traded in, which
20 is the difference between the amounts disclosed in subparagraphs
21 (A) and (B). If the prior credit or lease balance of the property
22 being traded in exceeds the agreed value of the property, a negative
23 number shall be stated.

24 (D) The amount of any portion of the downpayment to be
25 deferred until not later than the due date of the second regularly
26 scheduled installment under the contract and that is not subject to
27 a finance charge.

28 (E) The amount of any manufacturer's rebate applied or to be
29 applied to the downpayment.

30 (F) The remaining amount paid or to be paid by the buyer as a
31 downpayment.

32 (G) The total downpayment. If the sum of subparagraphs (C)
33 to (F), inclusive, is zero or more, that sum shall be stated as the
34 total downpayment and no amount shall be stated as the prior credit
35 or lease balance under subparagraph (I) of paragraph (1). If the
36 sum of subparagraphs (C) to (F), inclusive, is less than zero, then
37 that sum, expressed as a positive number, shall be stated as the
38 prior credit or lease balance under subparagraph (I) of paragraph
39 (1), and zero shall be stated as the total downpayment. The
40 disclosure required by this subparagraph shall be labeled "total

1 downpayment” and shall contain a descriptor indicating that if the
2 total downpayment is a negative number, a zero shall be disclosed
3 as the total downpayment and a reference made that the remainder
4 shall be included in the disclosure required pursuant to
5 subparagraph (I) of paragraph (1).

6 (7) The amount of any administrative finance charge, labeled
7 “prepaid finance charge.”

8 (8) The difference between item (5) and the sum of items (6)
9 and (7), labeled “amount financed.”

10 (b) No particular terminology is required to disclose the items
11 set forth in subdivision (a) except as expressly provided in that
12 subdivision.

13 (c) If payment of all or a portion of the downpayment is to be
14 deferred, the deferred payment shall be reflected in the payment
15 schedule disclosed pursuant to Regulation Z.

16 (d) If the downpayment includes property being traded in, the
17 contract shall contain a brief description of that property.

18 (e) The contract shall contain the names and addresses of all
19 persons to whom the notice required under Section 2983.2 and
20 permitted under Sections 2983.5 and 2984 is to be sent.

21 (f) (1) If the contract includes a finance charge determined on
22 the precomputed basis, the contract shall identify the method of
23 computing the unearned portion of the finance charge in the event
24 of prepayment in full of the buyer’s obligation and contain a
25 statement of the amount or method of computation of any charge
26 that may be deducted from the amount of any unearned finance
27 charge in computing the amount that will be credited to the
28 obligation or refunded to the buyer. The method of computing the
29 unearned portion of the finance charge shall be sufficiently
30 identified with a reference to the actuarial method if the
31 computation will be under that method. The method of computing
32 the unearned portion of the finance charge shall be sufficiently
33 identified with a reference to the Rule of 78’s, the sum of the digits,
34 or the sum of the periodic time balances method in all other cases,
35 and those references shall be deemed to be equivalent for disclosure
36 purposes.

37 (2) If the contract includes a finance charge that is determined
38 on the simple-interest basis but provides for a minimum finance
39 charge in the event of prepayment in full, the contract shall contain

1 a statement of that fact and the amount of the minimum finance
2 charge or its method of calculation.

3 (g) (1) If the contract includes a finance charge that is
4 determined on the precomputed basis and provides that the
5 unearned portion of the finance charge to be refunded upon full
6 prepayment of the contract is to be determined by a method other
7 than actuarial, the contract shall contain a notice, in at least
8 10-point boldface type if the contract is printed, reading as
9 follows: "Notice to buyer: (1) Do not sign this agreement before
10 you read it or if it contains any blank spaces to be filled in. (2)
11 You are entitled to a completely filled-in copy of this agreement.
12 (3) You can prepay the full amount due under this agreement at
13 any time and obtain a partial refund of the finance charge if it is
14 \$1 or more. Because of the way the amount of this refund will be
15 figured, the time when you prepay could increase the ultimate cost
16 of credit under this agreement. (4) If you default in the performance
17 of your obligations under this agreement, the vehicle may be
18 repossessed and you may be subject to suit and liability for the
19 unpaid indebtedness evidenced by this agreement."

20 (2) If the contract includes a finance charge that is determined
21 on the precomputed basis and provides for the actuarial method
22 for computing the unearned portion of the finance charge upon
23 prepayment in full, the contract shall contain a notice, in at least
24 10-point boldface type if the contract is printed, reading as
25 follows: "Notice to buyer: (1) Do not sign this agreement before
26 you read it or if it contains any blank spaces to be filled in. (2)
27 You are entitled to a completely filled-in copy of this agreement.
28 (3) You can prepay the full amount due under this agreement at
29 any time and obtain a partial refund of the finance charge if it is
30 \$1 or more. (4) If you default in the performance of your
31 obligations under this agreement, the vehicle may be repossessed
32 and you may be subject to suit and liability for the unpaid
33 indebtedness evidenced by this agreement."

34 (3) If the contract includes a finance charge that is determined
35 on the simple-interest basis, the contract shall contain a notice, in
36 at least 10-point boldface type if the contract is printed, reading
37 as follows: "Notice to buyer: (1) Do not sign this agreement
38 before you read it or if it contains any blank spaces to be filled in.
39 (2) You are entitled to a completely filled-in copy of this
40 agreement. (3) You can prepay the full amount due under this

1 agreement at any time. (4) If you default in the performance of
2 your obligations under this agreement, the vehicle may be
3 repossessed and you may be subject to suit and liability for the
4 unpaid indebtedness evidenced by this agreement.”

5 (h) The contract shall contain a notice in at least 8-point boldface
6 type, acknowledged by the buyer, that reads as follows:

7 “If you have a complaint concerning this sale, you should try to
8 resolve it with the seller.

9 Complaints concerning unfair or deceptive practices or methods
10 by the seller may be referred to the city attorney, the district
11 attorney, or an investigator for the Department of Motor Vehicles,
12 or any combination thereof.

13 After this contract is signed, the seller may not change the
14 financing or payment terms unless you agree in writing to the
15 change. You do not have to agree to any change, and it is an unfair
16 or deceptive practice for the seller to make a unilateral change.

17
18 _____
19
20 Buyer’s Signature”
21

22 (i) (1) The contract shall contain an itemization of any insurance
23 included as part of the amount financed disclosed pursuant to
24 paragraph (3) of subdivision (a) and of any insurance included as
25 part of the finance charge. The itemization shall identify the type
26 of insurance coverage and the premium charged therefor, and, if
27 the insurance expires before the date of the last scheduled
28 installment included in the repayment schedule, the term of the
29 insurance shall be stated.

30 (2) If any charge for insurance, other than for credit life or
31 disability, is included in the contract balance and disbursement of
32 any part thereof is to be made more than one year after the date of
33 the conditional sale contract, any finance charge on the amount to
34 be disbursed after one year shall be computed from the month the
35 disbursement is to be made to the due date of the last installment
36 under the conditional sale contract.

37 (j) (1) Except for contracts in which the finance charge or
38 portion thereof is determined by the simple-interest basis and the
39 amount financed disclosed pursuant to paragraph (8) of subdivision
40 (a) is more than two thousand five hundred dollars (\$2,500), the

1 dollar amount of the disclosed finance charge may not exceed the
2 greater of:

3 (A) (i) One and one-half percent on so much of the unpaid
4 balance as does not exceed two hundred twenty-five dollars (\$225),
5 1 ½ percent on so much of the unpaid balance in excess of two
6 hundred twenty-five dollars (\$225) as does not exceed nine hundred
7 dollars (\$900) and five-sixths of 1 percent on so much of the unpaid
8 balance in excess of nine hundred dollars (\$900) as does not exceed
9 two thousand five hundred dollars (\$2,500).

10 (ii) One percent of the entire unpaid balance; multiplied in either
11 case by the number of months (computed on the basis of a full
12 month for any fractional month period in excess of 15 days)
13 elapsing between the date of the contract and the due date of the
14 last installment.

15 (B) If the finance charge is determined by the precomputed
16 basis, twenty-five dollars (\$25).

17 (C) If the finance charge or a portion thereof is determined by
18 the simple-interest basis:

19 (i) Twenty-five dollars (\$25) if the unpaid balance does not
20 exceed one thousand dollars (\$1,000).

21 (ii) Fifty dollars (\$50) if the unpaid balance exceeds one
22 thousand dollars (\$1,000) but does not exceed two thousand dollars
23 (\$2,000).

24 (iii) Seventy-five dollars (\$75) if the unpaid balance exceeds
25 two thousand dollars (\$2,000).

26 (2) The holder of the contract may not charge, collect, or receive
27 a finance charge that exceeds the disclosed finance charge, except
28 to the extent (A) caused by the holder's receipt of one or more
29 payments under a contract that provides for determination of the
30 finance charge or a portion thereof on the 365-day basis at a time
31 or times other than as originally scheduled whether or not the
32 parties enter into an agreement pursuant to Section 2982.3, (B)
33 permitted by paragraph (2), (3), or (4) of subdivision (c) of Section
34 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and
35 (c) of Section 2982.8.

36 (3) If the finance charge or a portion thereof is determined by
37 the simple-interest basis and the amount of the unpaid balance
38 exceeds five thousand dollars (\$5,000), the holder of the contract
39 may, in lieu of its right to a minimum finance charge under
40 subparagraph (C) of paragraph (1), charge, receive, or collect on

1 the date of the contract an administrative finance charge not to
2 exceed seventy-five dollars (\$75), provided that the sum of the
3 administrative finance charge and the portion of the finance charge
4 determined by the simple-interest basis shall not exceed the
5 maximum total finance charge permitted by subparagraph (A) of
6 paragraph (1). Any administrative finance charge that is charged,
7 received, or collected by a holder shall be deemed a finance charge
8 earned on the date of the contract.

9 (4) If a contract provides for unequal or irregular payments, or
10 payments on other than a monthly basis, the maximum finance
11 charge shall be at the effective rate provided for in paragraph (1),
12 having due regard for the schedule of installments.

13 (k) The contract may provide that for each installment in default
14 for a period of not less than 10 days the buyer shall pay a
15 delinquency charge in an amount not to exceed in the aggregate 5
16 percent of the delinquent installment, which amount may be
17 collected only once on any installment regardless of the period
18 during which it remains in default. Payments timely received by
19 the seller under an extension or deferral agreement may not be
20 subject to a delinquency charge unless the charge is permitted by
21 Section 2982.3. The contract may provide for reasonable collection
22 costs and fees in the event of delinquency.

23 (l) Notwithstanding any provision of a contract to the contrary,
24 the buyer may pay at any time before maturity the entire
25 indebtedness evidenced by the contract without penalty. In the
26 event of prepayment in full:

27 (1) If the finance charge was determined on the precomputed
28 basis, the amount required to prepay the contract shall be the
29 outstanding contract balance as of that date, provided, however,
30 that the buyer shall be entitled to a refund credit in the amount of
31 the unearned portion of the finance charge, except as provided in
32 paragraphs (3) and (4). The amount of the unearned portion of the
33 finance charge shall be at least as great a proportion of the finance
34 charge, including any additional finance charge imposed pursuant
35 to Section 2982.8 or other additional charge imposed because the
36 contract has been extended, deferred, or refinanced, as the sum of
37 the periodic monthly time balances payable more than 15 days
38 after the date of prepayment bears to the sum of all the periodic
39 monthly time balances under the schedule of installments in the
40 contract or, if the contract has been extended, deferred, or

1 refinanced, as so extended, deferred, or refinanced. If the amount
2 of the refund credit is less than one dollar (\$1), no refund credit
3 need be made by the holder. Any refund credit may be made in
4 cash or credited to the outstanding obligations of the buyer under
5 the contract.

6 (2) If the finance charge or a portion thereof was determined
7 on the simple-interest basis, the amount required to prepay the
8 contract shall be the outstanding contract balance as of that date,
9 including any earned finance charges that are unpaid as of that
10 date and, if applicable, the amount provided in paragraph (3), and
11 provided further that in cases where a finance charge is determined
12 on the 360-day basis, the payments theretofore received will be
13 assumed to have been received on their respective due dates
14 regardless of the actual dates on which the payments were received.

15 (3) Where the minimum finance charge provided by
16 subparagraph (B) or subparagraph (C) of paragraph (1) of
17 subdivision (j), if either is applicable, is greater than the earned
18 finance charge as of the date of prepayment, the holder shall be
19 additionally entitled to the difference.

20 (4) The provisions of this subdivision may not impair the right
21 of the seller or the seller's assignee to receive delinquency charges
22 on delinquent installments and reasonable costs and fees as
23 provided in subdivision (k) or extension or deferral agreement
24 charges as provided in Section 2982.3.

25 (5) Notwithstanding any provision of a contract to the contrary,
26 whenever the indebtedness created by any contract is satisfied
27 prior to its maturity through surrender of the motor vehicle,
28 repossession of the motor vehicle, redemption of the motor vehicle
29 after repossession, or any judgment, the outstanding obligation of
30 the buyer shall be determined as provided in paragraph (1) or (2).
31 Notwithstanding, the buyer's outstanding obligation shall be
32 computed by the holder as of the date the holder recovers the value
33 of the motor vehicle through disposition thereof or judgment is
34 entered or, if the holder elects to keep the motor vehicle in
35 satisfaction of the buyer's indebtedness, as of the date the holder
36 takes possession of the motor vehicle.

37 (m) Notwithstanding any other provision of this chapter to the
38 contrary, any information required to be disclosed in a conditional
39 sale contract under this chapter may be disclosed in any manner,
40 method, or terminology required or permitted under Regulation

1 Z, as in effect at the time that disclosure is made, except that
2 permitted by paragraph (2) of subdivision (c) of Section 226.18
3 of Regulation Z, provided that all of the requirements and
4 limitations set forth in subdivision (a) of this section are satisfied.
5 This chapter does not prohibit the disclosure in that contract of
6 additional information required or permitted under Regulation Z,
7 as in effect at the time that disclosure is made.

8 (n) If the seller imposes a fee for document preparation, the
9 contract shall contain a disclosure that the fee is not a governmental
10 fee.

11 (o) A seller may not impose an application fee for a transaction
12 governed by this chapter.

13 (p) The seller or holder may charge and collect a fee not to
14 exceed fifteen dollars (\$15) for the return by a depository institution
15 of a dishonored check, negotiated order of withdrawal, or share
16 draft issued in connection with the contract, if the contract so
17 provides or if the contract contains a generalized statement that
18 the buyer may be liable for collection costs incurred in connection
19 with the contract.

20 (q) The contract shall disclose on its face, by printing the word
21 “new” or “used” within a box outlined in red, that is not smaller
22 than one-half inch high and one-half inch wide, whether the vehicle
23 is sold as a new vehicle, as defined in Section 430 of the Vehicle
24 Code, or as a used vehicle, as defined in Section 665 of the Vehicle
25 Code.

26 (r) The contract shall contain a notice with a heading in at least
27 12-point bold type and the text in at least 10-point bold type,
28 circumscribed by a line, immediately above the contract signature
29 line, that reads as follows:

30
31 **THERE IS NO COOLING-OFF PERIOD UNLESS YOU**
32 **OBTAIN A CONTRACT CANCELLATION OPTION.**
33

34 California law does not provide for a “cooling-off” or other cancellation
35 period for vehicle sales. Therefore, you cannot later cancel this contract
36 simply because you change your mind, decide the vehicle costs too much,
37 or wish you had acquired a different vehicle. After you sign below, you
38 may only cancel this contract with the agreement of the seller or for legal
39 cause, such as fraud.

1 However, California law does require a seller to offer a 2-day contract
2 cancellation option on used vehicles with a purchase price of less than
3 \$40,000, subject to certain statutory conditions. This contract cancellation
4 option requirement does not apply to the sale of a recreational vehicle, a
5 motorcycle, or an off-highway motor vehicle subject to identification
6 under California law. See the vehicle contract cancellation option
7 agreement for details.

8
9
10 SEC. 2. Section 42860.5 is added to the Public Resources Code,
11 to read:

12 42860.5. For purposes of this chapter, “department” or “board”
13 means the Department of Resources Recycling and Recovery.

14 SEC. 3. Section 42861 of the Public Resources Code is
15 amended to read:

16 42861. The Legislature finds and declares the following:

17 (a) The problem posed by used tire storage and disposal requires
18 a comprehensive, statewide response, including, but not limited
19 to, reducing landfill disposal of used whole tires, recycling of tires
20 into secondary uses, source material development and promotion
21 of secondary markets for used tire byproducts, tire shredding, and
22 energy recovery.

23 (b) California is currently faced with an existing used tire
24 inventory of at least 100 million tires, an amount that grows by
25 over 20 million tires per year. Without a dedication of resources
26 to address the state’s growing tire population, the health and safety
27 of all Californians will be increasingly at risk.

28 (c) There are currently no dedicated resources for the recycling
29 of used tires, or a comprehensive tire shredding program.
30 Therefore, the levying of a fee on the disposal of used whole tires
31 in the state is needed to support tire recycling activities.

32 (d) To mitigate the environmental impacts caused by tires
33 mounted on new and used vehicles on California roads, and to
34 ease compliance for new motor vehicle dealers and their customers,
35 collection of a fee for vehicles sold by new motor vehicle dealers
36 should be assessed on a per vehicle, rather than a per tire, basis.

37 (e) Used tires represent a valuable state resource that should be
38 reclaimed and recycled whenever possible. An abundance of tire
39 recycling alternatives exist that have been demonstrated to be

1 environmentally safe. These alternatives need to be promoted in
2 order to achieve the maximum use of used tires.

3 (f) Shredding of used tires represents a preferable alternative to
4 whole tire storage or disposal. Given the rapidly decreasing amount
5 of landfill space available to local jurisdictions, shredding
6 represents a positive way of storing tires until a secondary use can
7 be developed.

8 SEC. 4. Section 42885 of the Public Resources Code, as
9 amended by Section 55 of Chapter 77 of the Statutes of 2006, is
10 amended to read:

11 42885. (a) For purposes of this section, "California tire fee"
12 means the fee imposed pursuant to this section.

13 (b) (1) Except as provided in subdivision (i), a person who
14 purchases a new tire, as defined in subdivision (g), shall pay a
15 California tire fee of one dollar and seventy-five cents (\$1.75) per
16 tire.

17 (2) The retail seller shall charge the retail purchaser the amount
18 of the California tire fee as a charge that is separate from, and not
19 included in, any other fee, charge, or other amount paid by the
20 retail purchaser.

21 (3) The retail seller shall collect the California tire fee from the
22 retail purchaser at the time of sale and may retain 1 ½ percent of
23 the fee as reimbursement for any costs associated with the
24 collection of the fee. The retail seller shall remit the remainder to
25 the state on a quarterly schedule for deposit in the California Tire
26 Recycling Management Fund, which is hereby created in the State
27 Treasury.

28 (c) The department, or its agent authorized pursuant to Section
29 42882, shall be reimbursed for its costs of collection, auditing, and
30 making refunds associated with the California Tire Recycling
31 Management Fund, but not to exceed 3 percent of the total annual
32 revenue deposited in the fund.

33 (d) The California tire fee imposed pursuant to subdivision (b)
34 shall be separately stated by the retail seller on the invoice given
35 to the customer at the time of sale. Any other disposal or
36 transaction fee charged by the retail seller related to the tire
37 purchase shall be identified separately from the California tire fee.

38 (e) A person or business who knowingly, or with reckless
39 disregard, makes a false statement or representation in a document
40 used to comply with this section is liable for a civil penalty for

1 each violation or, for continuing violations, for each day that the
2 violation continues. Liability under this section may be imposed
3 in a civil action and shall not exceed twenty-five thousand dollars
4 (\$25,000) for each violation.

5 (f) In addition to the civil penalty that may be imposed pursuant
6 to subdivision (e), the department may impose an administrative
7 penalty in an amount not to exceed five thousand dollars (\$5,000)
8 for each violation of a separate provision or, for continuing
9 violations, for each day that the violation continues, on a person
10 who intentionally or negligently violates a permit, rule, regulation,
11 standard, or requirement issued or adopted pursuant to this chapter.
12 The department shall adopt regulations that specify the amount of
13 the administrative penalty and the procedure for imposing an
14 administrative penalty pursuant to this subdivision.

15 (g) For purposes of this section, “new tire” means a pneumatic
16 or solid tire intended for use with on-road or off-road motor
17 vehicles, motorized equipment, construction equipment, or farm
18 equipment that is sold separately from the motorized equipment,
19 or a new tire sold with a used motor vehicle, as defined in Section
20 42803.5, including the spare tire, construction equipment, or farm
21 equipment. “New tire” does not include retreaded, reused, or
22 recycled tires or a new tire sold with a new or used motor vehicle,
23 as defined in Section 42803.5, which is sold or leased by a new
24 motor vehicle dealer, as defined in Section 426 of the Vehicle
25 Code.

26 (h) The California tire fee shall not be imposed on a tire sold
27 with, or sold separately for use on, any of the following:

28 (1) A self-propelled wheelchair.

29 (2) A motorized tricycle or motorized quadricycle, as defined
30 in Section 407 of the Vehicle Code.

31 (3) A vehicle that is similar to a motorized tricycle or motorized
32 quadricycle and is designed to be operated by a person who, by
33 reason of the person’s physical disability, is otherwise unable to
34 move about as a pedestrian.

35 (i) The California tire fee shall not be imposed on a tire on a
36 vehicle that is sold or leased by a new motor vehicle dealer, as
37 defined in Section 426 of the Vehicle Code.

38 (j) This section shall remain in effect only until January 1, 2015,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2015, deletes or extends that date.

1 SEC. 5. Section 42885 of the Public Resources Code, as added
2 by Section 13.5 of Chapter 707 of the Statutes of 2004, is amended
3 to read:

4 42885. (a) For purposes of this section, "California tire fee"
5 means the fee imposed pursuant to this section.

6 (b) (1) Except as provided in subdivision (i), a person who
7 purchases a new tire, as defined in subdivision (g), shall pay a
8 California tire fee of seventy-five cents (\$0.75) per tire.

9 (2) The retail seller shall charge the retail purchaser the amount
10 of the California tire fee as a charge that is separate from, and not
11 included in, any other fee, charge, or other amount paid by the
12 retail purchaser.

13 (3) The retail seller shall collect the California tire fee from the
14 retail purchaser at the time of sale and may retain 3 percent of the
15 fee as reimbursement for any costs associated with the collection
16 of the fee. The retail seller shall remit the remainder to the state
17 on a quarterly schedule for deposit in the California Tire Recycling
18 Management Fund, which is hereby created in the State Treasury.

19 (c) The department, or its agent authorized pursuant to Section
20 42882, shall be reimbursed for its costs of collection, auditing, and
21 making refunds associated with the California Tire Recycling
22 Management Fund, but not to exceed 3 percent of the total annual
23 revenue deposited in the fund.

24 (d) The California tire fee imposed pursuant to subdivision (a)
25 shall be separately stated by the retail seller on the invoice given
26 to the customer at the time of sale. Any other disposal or
27 transaction fee charged by the retail seller related to the tire
28 purchase shall be identified separately from the California tire fee.

29 (e) Any person or business who knowingly, or with reckless
30 disregard, makes any false statement or representation in any
31 document used to comply with this section is liable for a civil
32 penalty for each violation or, for continuing violations, for each
33 day that the violation continues. Liability under this section may
34 be imposed in a civil action and shall not exceed twenty-five
35 thousand dollars (\$25,000) for each violation.

36 (f) In addition to the civil penalty that may be imposed pursuant
37 to subdivision (e), the department may impose an administrative
38 penalty in an amount not to exceed five thousand dollars (\$5,000)
39 for each violation of a separate provision or, for continuing
40 violations, for each day that the violation continues, on any person

1 who intentionally or negligently violates any permit, rule,
2 regulation, standard, or requirement issued or adopted pursuant to
3 this chapter. The department shall adopt regulations that specify
4 the amount of the administrative penalty and the procedure for
5 imposing an administrative penalty pursuant to this subdivision.

6 (g) For purposes of this section, “new tire” means a pneumatic
7 or solid tire intended for use with on-road or off-road motor
8 vehicles, motorized equipment, construction equipment, or farm
9 equipment that is sold separately from the motorized equipment,
10 or a new tire sold with a used motor vehicle, as defined in Section
11 42803.5, including the spare tire, construction equipment, or farm
12 equipment. “New tire” does not include retreaded, reused, or
13 recycled tires or a new tire sold with a new or used motor vehicle,
14 as defined in Section 42803.5, which is sold or leased by a new
15 motor vehicle dealer, as defined in Section 426 of the Vehicle
16 Code.

17 (h) The California tire fee may not be imposed on any tire sold
18 with, or sold separately for use on, any of the following:

- 19 (1) Any self-propelled wheelchair.
20 (2) Any motorized tricycle or motorized quadricycle, as defined
21 in Section 407 of the Vehicle Code.
22 (3) Any vehicle that is similar to a motorized tricycle or
23 motorized quadricycle and is designed to be operated by a person
24 who, by reason of the person’s physical disability, is otherwise
25 unable to move about as a pedestrian.

26 (i) The California tire fee shall not be imposed on a tire on a
27 vehicle that is sold or leased by a new motor vehicle dealer, as
28 defined in Section 426 of the Vehicle Code.

29 (j) This section shall become operative on January 1, 2015.

30 SEC. 6. Section 42885.1 is added to the Public Resources Code,
31 to read:

32 42885.1. (a) For purposes of this section, the following
33 definitions shall apply:

- 34 (1) “California vehicle tire fee” means the fee imposed pursuant
35 to this section.
36 (2) “Retail vehicle seller” means a new motor vehicle dealer,
37 as defined in Section 426 of the Vehicle Code.
38 (3) “Vehicle” means a vehicle, as defined in Section 430 of the
39 Vehicle Code.

1 (b) (1) Until December 31, 2014, a person who purchases or
2 leases a vehicle shall pay a California vehicle tire fee of ~~nine dollars~~
3 ~~and fifty cents (\$9.50)~~ *ten dollars and fifty cents (\$10.50)*. On and
4 after January 1, 2015, a person who purchases or leases a vehicle
5 in a retail sale shall pay a California vehicle tire fee of ~~five dollars~~
6 ~~(\$5)~~ *five dollars and fifty cents (\$5.50)*.

7 (2) The retail vehicle seller shall charge the retail vehicle
8 purchaser or lessee the amount of the California vehicle tire fee
9 as a charge that is separate from, and not included in, any other
10 fee, charge, or other amount paid by the retail purchaser or lessee.

11 (3) The retail vehicle seller shall collect the California vehicle
12 tire fee from the retail vehicle purchaser or lessee at the time of
13 sale and may retain 1 ½ percent of the fee as reimbursement for
14 any costs associated with the collection of the fee. The retail vehicle
15 seller shall remit the remainder to the state on a quarterly schedule
16 for deposit in the California Tire Recycling Management Fund
17 created pursuant to Section 42885.

18 (c) The department, or its agent authorized pursuant to Section
19 42882, shall be reimbursed for its costs of collection, auditing, and
20 making refunds associated with the California vehicle tire fee, but
21 not to exceed 3 percent of the total annual revenue from that fee
22 that is deposited in the fund.

23 (d) The California vehicle tire fee imposed pursuant to
24 subdivision (b) shall be separately stated by the retail vehicle seller
25 on the conditional sale or lease agreement given to the retail vehicle
26 purchaser or lessee at the time of sale or lease. Any other disposal
27 or transaction fee charged by the retail vehicle seller related to the
28 tire purchase or vehicle lease shall be identified separately from
29 the California tire fee.

30 (e) A person or business who knowingly, or with reckless
31 disregard, makes a false statement or representation in a document
32 used to comply with this section is liable for a civil penalty for
33 each violation or, for continuing violations, for each day that the
34 violation continues. Liability under this section may be imposed
35 in a civil action and shall not exceed twenty-five thousand dollars
36 (\$25,000) for each violation.

37 (f) In addition to the civil penalty that may be imposed pursuant
38 to subdivision (e), the department may impose an administrative
39 penalty in an amount not to exceed five thousand dollars (\$5,000)
40 for each violation of a separate provision or, for continuing

1 violations, for each day that the violation continues, on a person
2 who intentionally or negligently violates a permit, rule, regulation,
3 standard, or requirement issued or adopted pursuant to this chapter.
4 The department shall adopt regulations that specify the amount of
5 the administrative penalty and the procedure for imposing an
6 administrative penalty pursuant to this subdivision.

7 *(g) It is the intent of the Legislature that imposition of the*
8 *California vehicle tire fee pursuant to this section result in the*
9 *state collecting approximately the same amount of revenue on and*
10 *after January 1, 2011, as the amount that would have been*
11 *collected on and after that date if the changes made by the act of*
12 *the 2009–10 Regular Session of the Legislature that adds this*
13 *section had not been enacted.*

14 SEC. 7. Section 42886 of the Public Resources Code is
15 amended to read:

16 42886. The fees remitted pursuant to Sections 42885 and
17 42885.1 are due and payable quarterly on or before the 15th day
18 of the month following each calendar quarter.

19 SEC. 8. Section 42889 of the Public Resources Code, as
20 amended by Section 3 of Chapter 333 of the Statutes of 2009, is
21 amended to read:

22 42889. (a) Commencing January 1, 2005, of the moneys
23 collected pursuant to Section 42885, an amount equal to
24 seventy-five cents (\$0.75) per tire on which the fee is imposed
25 shall be transferred by the State Board of Equalization to the Air
26 Pollution Control Fund. Of the moneys collected pursuant to
27 Section 42885.1, an amount equal to four dollars and ~~nine cents~~
28 ~~(\$4.09)~~ *fifty-two cents (\$4.52)* per vehicle on which the fee is
29 imposed shall be transferred by the State Board of Equalization to
30 the Air Pollution Control Fund. The state board shall expend those
31 moneys, or allocate those moneys to the districts for expenditure,
32 to fund programs and projects that mitigate or remediate air
33 pollution caused by tires in the state, to the extent that the state
34 board or the applicable district determines that the program or
35 project remediates air pollution harms created by tires upon which
36 the fee described in Sections 42885 and 42885.1 is imposed.

37 (b) The remaining moneys collected pursuant to Sections 42885
38 and 42885.1 shall be used to fund the waste tire program, and shall
39 be appropriated to the department in the annual Budget Act in a
40 manner consistent with the five-year plan adopted and updated by

1 the department. These moneys shall be expended for the payment
2 of refunds under this chapter and for the following purposes:

3 (1) To pay the administrative overhead cost of this chapter, not
4 to exceed 6 percent of the total revenue deposited in the fund
5 annually, or an amount otherwise specified in the annual Budget
6 Act.

7 (2) To pay the costs of administration associated with collection,
8 making refunds, and auditing revenues in the fund, not to exceed
9 3 percent of the total revenue deposited in the fund, as provided
10 in subdivision (c) of Section 42885 and subdivision (c) of Section
11 42885.1.

12 (3) To pay the costs associated with operating the tire recycling
13 program specified in Article 3 (commencing with Section 42870).

14 (4) To pay the costs associated with the development and
15 enforcement of regulations relating to the storage of waste tires
16 and used tires. The department shall consider designating a city,
17 county, or city and county as the enforcement authority of
18 regulations relating to the storage of waste tires and used tires, as
19 provided in subdivision (c) of Section 42850, and regulations
20 relating to the hauling of waste and used tires, as provided in
21 subdivision (b) of Section 42963. If the department designates a
22 local entity for that purpose, the department shall provide sufficient,
23 stable, and noncompetitive funding to that entity for that purpose,
24 based on available resources, as provided in the five-year plan
25 adopted and updated as provided in subdivision (a) of Section
26 42885.5. The department may consider and create, as appropriate,
27 financial incentives for citizens who report the illegal hauling or
28 disposal of waste tires as a means of enhancing local and statewide
29 waste tire and used tire enforcement programs.

30 (5) To pay the costs of cleanup, abatement, removal, or other
31 remedial action related to waste tire stockpiles throughout the state,
32 including all approved costs incurred by other public agencies
33 involved in these activities by contract with the department. Not
34 less than six million five hundred thousand dollars (\$6,500,000)
35 shall be expended by the department during each of the following
36 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

37 (6) To make studies and conduct research directed at promoting
38 and developing alternatives to the landfill disposal of waste tires.

39 (7) To assist in developing markets and new technologies for
40 used tires and waste tires. The department's expenditure of funds

1 for purposes of this subdivision shall reflect the priorities for waste
2 management practices specified in subdivision (a) of Section
3 40051.

4 (8) To pay the costs associated with implementing and operating
5 a waste tire and used tire hauler program and manifest system
6 pursuant to Chapter 19 (commencing with Section 42950).

7 (9) To pay the costs to create and maintain an emergency
8 reserve, which shall not exceed one million dollars (\$1,000,000).

9 (10) To pay the costs of cleanup, abatement, or other remedial
10 action related to the disposal of waste tires in implementing and
11 operating the Farm and Ranch Solid Waste Cleanup and Abatement
12 Grant Program established pursuant to Chapter 2.5 (commencing
13 with Section 48100) of Part 7.

14 (11) To fund border region activities specified in paragraph (8)
15 of subdivision (b) of Section 42885.5.

16 (c) This section shall remain in effect only until January 1, 2015,
17 and as of that date is repealed, unless a later enacted statute that
18 is enacted before January 1, 2015, deletes or extends that date.

19 SEC. 9. Section 42889 of the Public Resources Code, as
20 amended by Section 4 of Chapter 333 of the Statutes of 2009, is
21 amended to read:

22 42889. Funding for the waste tire program shall be appropriated
23 to the department in the annual Budget Act. The moneys in the
24 fund shall be expended for the payment of refunds under this
25 chapter and for the following purposes:

26 (a) To pay the administrative overhead cost of this chapter, not
27 to exceed 5 percent of the total revenue deposited in the fund
28 annually, or an amount otherwise specified in the annual Budget
29 Act.

30 (b) To pay the costs of administration associated with collection,
31 making refunds, and auditing revenues in the fund, not to exceed
32 3 percent of the total revenue deposited in the fund, as provided
33 in subdivision (c) of Section 42885 and subdivision (c) of Section
34 42885.1.

35 (c) To pay the costs associated with operating the tire recycling
36 program specified in Article 3 (commencing with Section 42870).

37 (d) To pay the costs associated with the development and
38 enforcement of regulations relating to the storage of waste tires
39 and used tires. The department shall consider designating a city,
40 county, or city and county as the enforcement authority of

1 regulations relating to the storage of waste tires and used tires, as
2 provided in subdivision (c) of Section 42850, and regulations
3 relating to the hauling of waste and used tires, as provided in
4 subdivision (b) of Section 42963. If the department designates a
5 local entity for that purpose, the department shall provide sufficient,
6 stable, and noncompetitive funding to that entity for that purpose,
7 based on available resources, as provided in the five-year plan
8 adopted and updated as provided in subdivision (a) of Section
9 42885.5. The department may consider and create, as appropriate,
10 financial incentives for citizens who report the illegal hauling or
11 disposal of waste tires as a means of enhancing local and statewide
12 waste tire and used tire enforcement programs.

13 (e) To pay the costs of cleanup, abatement, removal, or other
14 remedial action related to waste tire stockpiles throughout the state,
15 including all approved costs incurred by other public agencies
16 involved in these activities by contract with the department. Not
17 less than six million five hundred thousand dollars (\$6,500,000)
18 shall be expended by the department during each of the following
19 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

20 (f) To fund border region activities specified in paragraph (8)
21 of subdivision (b) of Section 42885.5.

22 (g) This section shall become operative on January 1, 2015.

23 *SEC. 10. On or before January 1, 2012, the State Board of*
24 *Equalization, in consultation with the State Air Resources Board*
25 *and the Department of Resources Recycling and Recovery, shall*
26 *submit a report to the Legislature pursuant to Section 9795 of the*
27 *Government Code concerning the fiscal effect of imposing the*
28 *California vehicle tire fee pursuant to Section 42885.1 of the Public*
29 *Resources Code. The report shall determine whether there has*
30 *been any change in revenue collected by the state resulting from*
31 *the imposition of the California vehicle tire fee pursuant to Section*
32 *42885.1 of the Public Resources Code upon tires on a vehicle sold*
33 *or leased by a new motor vehicle dealer, in lieu of the California*
34 *tire fee that was imposed on those tires pursuant to Section 42885*
35 *of the Vehicle Code prior to January 1, 2011. The report shall*
36 *recommend any needed adjustments to the amount of the California*
37 *vehicle tire fee to better align those fee revenues with the amount*
38 *that would have been collected under the California tire fee on*
39 *and after January 1, 2011, if the changes made by the act of the*

1 2009–10 Regular Session of the Legislature that added this section
2 had not been enacted.

3 ~~SEC. 10.~~

4 SEC. 11. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

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